1947.

File No. O/BCCTRO/47

Legal Department

BRANCH

Subject:—

Opinions Cases regarding Bombay Cotton Cloth Trade Regulation order 1945

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C O N T E N T S.

Legal Department File No. O. BCC TRD/47.

Sr. No.	R.I./O.No.	Subject	Pages.
		Opinion cases regarding Bombay Cotton Cloth Trade Regulation order 1945.	
	10094 20/12/1947	Clause 3. Bombay cloth Rationing order, clause 5. Whether M/S Shantilal Mulachand, a 'B' class dealer of Bombay have contravened clause 3 of the order by selling cloth in Ahmedabad where he does not hold a ~~va~~ valid licence. etc.	1-2
2.	11506 27/12/1947	Clause 24 Whether it necessary to amend clause 24 to create an obligation on the 'C' class dealer to produce the account books when he is required to do so by a competent authority.	3-4.

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Office of the M.M.A.

Prosecution

Bombay Cotton Cloth Trade Regulation Order, 1945.

Messrs. Shantilal Mulchand a 'B' class dealer of Bombay, purchased 171pieces of printed Chints (which is rationed cloth+from the member of the Ahmedabad Hand Printers Association and sold 132 of these pieces to dealers in Ahmedabad and 39 pieces to dealers in Bombay.

The question for consideration is whether Messrs. Shantilal Mulchand have contravened-

(1) clause 3 of the B.C.C.T.R.O., 1945, by selling cloth in Ahmedabad where he does not hold a valid licence, and

(2) the cloth distribution scheme for selling rationed cloth in Bombay without a release order from the P.T. C's office.

'B' class dealers are given licences in form III appended to the B.C.C.T.R.O.45. From the entries in the licence and the important conditions enemerated therein, it will be seen that the licenc is given for carrying on the business at the premise entered on the licence. M/S. Shantilal Mulchand hahave not carried on business at any place in Ahmedabad. He may have sold the cloth pieces by correspondence from his dhop in Bombay. There is nothing in the B.C.C.T.R.O. to suggest that the licensee who is given a licence in Bombay should sell or buy cloth from merchants in Bombay only and not from upcountry merchants. It is, therefore, doubtful whether prosecution for breach of clause 3 of the B.C.C.T.R.O. will succeed in this case.

As regards the second offence, there is no statutory cloth distribution scheme for the breach of which this dealer can be prosecuted. He has committed a breach of cl. 5 of the Bombay Cloth

Bombay Cloth Rationing Order and should be prosecuted.

Further investigation is necessary regarding the sale by the dealers who purchased rationed cloth from M/S. Shantilal Mulchand.

Asstt. Remembrancer of Legal Affairs.

U. R. to P.T.C. No. 10094 , Dated the 20th October, 1947.

In the absence of a provision compelling a person to allow access to premises, answer questions and produce documents etc., it will not be possible to punish him for refusing to do the same. Clause 24 of the order may be turned into sub-clause (1) and the following sub-clause (2) may be added thereto, namely:-

"(2) Every person, when so required by such officer or the licensing authority, shall at all reasonable times allow access to premises answer all questions to the best of his knowledge and belief and produce the documents and stocks of cloth in his possession."

The licences granted under the Bombay Cotton Cloth Trade Regulation Order, 1945, are subject to the provisions of the Order. It is not, therfore, strictly speaking, necessary to have a condition in the licences on the lines of clause 24 of the Order. But since a condition on the lines of that clause has already been inserted in the various licence forms appended to the Order, it will be desirable to insert in those forms a condition on the lines of the proposed sub-clause (2).

sd/-

Remembrancer of Legal Affairs.

U.O. No. C.S.D. No. 11506 dated 2/12/47.

SSM / 4/7/56.